



University of Connecticut

*Attachment
in file*

Judiciary Committee Public Hearing

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Testimony

By

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Co-Chairs, Ranking Members and Members of the Committee, my name is Barry Feldman and I am the Vice-President and Chief Operating Officer at the University of Connecticut. Thank you for giving me the opportunity to testify today in favor of *Senate Bill 1127, An Act Concerning the Applicability of Certain State Contracting Non-Discrimination Requirements*.

As you know, in 2007 the General Assembly enacted Public Act 07-142, *An Act Concerning Procedures for the Hearing of Complaints Against State Contractors and Subcontractors by the Commission on Human Rights and Opportunities and the Documentation of Nondiscrimination Policies Adopted by State Contractors*, which is now codified as sections 4a-60 and 4a-60a of the Connecticut General Statutes. PA 07-142 requires contractors doing business with the State of Connecticut to provide documentation in the form of a company or corporate policy adopted by the company's board or other governing body that they are in compliance with Connecticut non-discrimination statutes.

UConn supports the goal of PA 07-142 to end discriminatory employment practices. As a public university committed to diversity and inclusiveness, we recognize the critical role that commerce plays in creating a work environment that accepts and embraces all opinions and lifestyles.

However, we remain deeply concerned that if there are no changes to the current law, there will be repercussions across the University that will impede the progress we have made in the past decade to become the top-ranked public university in New England and ranked 26th amongst all public research universities by US News and World Report. Accreditation for some of our academic programs may be jeopardized and direct services to students such as grading, course scheduling, financial aid packaging, and standard services available at any other college campus may be adversely impacted. Continuity of patient care at the Health Center may also be affected. Additionally, basic functions needed to run the University like payroll, budgeting, and accounting are also at risk.

As the state's only public research institution, we must procure for our faculty and students the basic tools – software, equipment, journals and databases -- available at all other major research universities in the nation. Without these tools, it will be difficult for our faculty to publish and compete successfully for federal research grants, which are necessary for tenure and for faculty to be productive members of the UConn community. Similarly, students at the undergraduate, graduate and doctoral level must conduct research in order to graduate and earn their degrees. If the University is unable to purchase these tools, our ability to compete for federal grants, and retain and attract the best faculty and students will be diminished.

Please know that the University has been diligent in implementing both the letter and the spirit of PA 07-142. Our purchasing staff has worked skillfully and assiduously to secure the necessary Board resolutions from vendors. While many have complied, our efforts have all too often been unsuccessful, requiring the University to obtain 45 waivers from the Commission on Human Rights and Opportunities (CHRO) in order to ensure the availability of essential services to students, patients, and faculty. The University has gone to CHRO for 60 different contracts and I would like to stress that – during a time of diminishing state resources -- significant staff and faculty time has been devoted to this effort both to get vendors to comply as well as to apply for waivers. In addition to the purchasing staff involved, each affected department has dedicated faculty and staff time to secure the required board resolution or the waiver. While the University is committed to enforcing PA 07-142, please understand that this commitment is diverting staff and faculty time from our core missions of teaching, research and patient care.

I would like to take a moment to characterize why the CHRO waivers have been necessary. Some of them were needed because the value of the contract was not significant enough to justify the vendor's legal costs associated with compliance. In other instances, the purchase amount failed to exceed established contract dollar thresholds that would have triggered board consideration. In others cases, corporate policy decisions are not made at the Board level. In these latter two instances especially, seeking a Board resolution is sometimes viewed as an unwarranted intrusion into the internal governance of the enterprise.

The University thanks the Committee for raising Senate Bill 1127 as it will address some of the concerns we have identified about PA 07-142. In fact, we appreciate that prior board resolutions will be acceptable and that contracts with the federal government, municipalities, other states and foreign countries are exempted. Also, the bill makes it easier for contracts under \$50,000 to meet Connecticut's non-discrimination statutes. However, the University respectfully asks that the Committee consider a few additional changes to help us meet the law's requirements but ease the time and expense involved.

We propose the removal of the requirement that vendors with contracts of \$50,000 or less have to provide written representation that they are in compliance with Connecticut's non-discrimination laws and that it be made clear that the \$50,000 level is an annual contract amount. This would essentially prevent the disruption or loss of a wide variety of highly-specialized laboratory equipment, software, medical devices, and other services critical to UConn's array of professional, clinical and research programs. Since PA-07-142 was enacted, the University has found that many vendors – which provide specialty or niche products and services needed by our students, patients or faculty for graduation, healthcare or federal research grants, respectively – often lack a financial incentive to comply with the new law. For example, the School of Engineering is required by national accreditation standards to train students on particular software prior to graduation. The ramifications of such losses to the University's students and to its reputation as a research institution are extremely serious and could take years to restore. The University has discovered that the vendors selling this software do not want to pay the legal fees necessary for the board of directors resolution requirement of 4a-60 and 4a-60a just to make a software license sale to UConn that is often less than \$10,000. Unfortunately, alternative vendors are often times not an option as many of these highly-specialized purchases are sole sources with no other providers. Additionally, some of the applications are embedded systems, such as Oracle, and would cost tens of millions of dollars and take years to replace.

UConn also requests that in lieu of a board resolution, a vendor's chief executive or other corporate officer be allowed to certify that the company has a policy that complies with

Connecticut's non-discrimination statutes. This would address the situation facing a number of major corporations – like Oracle Corporation and Microsoft –which have implemented very progressive non-discrimination policies, but whose boards do not approve employment policies. This change would solve the University's issue with respect to its contract with Oracle Corporation which is due to expire in June 2009 (unless CHRO extends its current waiver). Oracle Corporation provides the University with software and technical support to manage all of its core business, financial, academic and student operations. Specifically, these operations include all aspects of student data administration, academic information, financial data administration and Human Resource administration utilized daily by our students, faculty and staff at our six campuses and Law School. While Oracle has a corporate policy that complies with Connecticut's non-discrimination statutes, its Board simply does not act on corporate policy as required by PA 07-142. Instead, it delegates this authority to a corporate officer. A similar situation exists with respect to the Health Center's contract with Microsoft.

We believe these two changes would significantly increase the University's ability to cost-effectively contract for services needed daily at our campuses and limit requests for exemptions while preserving the original goals of PA 07-142.

As you consider our proposed changes to SB 1127, please keep in mind that the University and the Health Center vie for students, patients, faculty and sponsored research in a highly competitive environment. Our "customers" pay for these goods and services and have legitimate expectations for the quality and timeliness of products and services that the University's purchases on their behalf. We manage six campuses, the Law School and the Health Center that are twenty-four hour per day, seven-day per week operations. The Health Center, for example, routinely serves medical emergencies, a rapidly growing outpatient population, and a diverse inpatient population, including pediatric patients, geriatric patients and all ages in between. Connecticut public higher education institutions generally, and the University of Connecticut specifically, exist in a market environment, which distinguishes us from other state agencies. All of our "customers" choose UConn and pay with dollars borrowed from long-term loans, personal savings, and retirement accounts, and other means for their education, clinical services or as a place to teach and conduct research. To continue to compete effectively, it is essential that we have the ability to serve our "customers" with the products and services they need at a competitive price.

Later on today you will be hearing from our Dean of Engineering, and the head of our School of Business' Accounting Department, and a representative from our Health Center has submitted written testimony. They will be able to provide you with a sense of the broad impact PA 07-142 is having on students, patients, research, and scholarly activity across the University. Also, attached to my testimony are some detailed descriptions of the types of contracts that have been affected by PA 07-142.

Thank you again for raising SB 1127 and for your consideration of some suggested amendments to the legislation. The University remains grateful for the Committee's continued support of UConn.